

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

JONATHAN A. TOMPKINS,

Petitioner,

v.

Case No: 5:19-cv-559-Oc-02PRL

WARDEN, FCC COLEMAN –
LOW,

Respondent.

ORDER DISMISSING CASE

Petitioner, proceeding *pro se*, initiated this case by filing a Petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. 1). Petitioner challenges his “prosecution under 18 U.S.C. § 922(g)” claiming it is “null and void because the Government was not able to both that Tompkins knew he possessed a firearm and that he knew he belonged to the relevant category of persons barred from possessing a firearm.” *Id.* at 6-7.

Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that “[i]f the court determines at any time that it lacks subject matter jurisdiction, the court must dismiss the action.” See also Rule 12, Rules Governing Section 2255 proceedings. Recently, sitting *en banc* the Eleventh Circuit overruled prior precedent and held that 28 U.S.C. § 2241 is not available to challenge the validity of a sentence except on very narrow grounds not present in this case. McCarthan v. Director of Goodwill

Industries-Suncoast, Inc., 851 F.3d 1076, 1079 (11th Cir. 2017) (en banc) (quoting 28 U.S.C. § 2255(e)); Bernard v. FCC Coleman Warden, 686 F. App'x 730 (11th Cir. 2017) (citing McCarthan, 851 F.3d at 1092-93).

Thus, pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts (directing *sua sponte* dismissal if the petition and records show that the moving party is not entitled to relief), this case is **DISMISSED**. See also 28 U.S.C. § 2255(b). The **Clerk** is directed to enter judgment dismissing this case without prejudice, terminate any pending motions, and close the file.

IT IS SO ORDERED.

DONE AND ORDERED at Tampa, Florida, this 26th day of November 2019.



WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

Copies to: Pro Se Petitioner